

**161—8.3(216) Disparate treatment.** The principle of disparate or unequal treatment must be distinguished from the concepts of test validation. A test or other employee selection standard—even though validated against job performance in accordance with the rules in this chapter—cannot be imposed upon any individual or class protected by Title VII, Civil Rights Act of 1964, or Iowa Code chapter 216 where other employees, applicants or members have not been subjected to that standard. Disparate treatment, for example, occurs where members of a minority or sex group have been denied the same employment, promotion, transfer or membership opportunities as have been made available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, no new test or other employee selection standard can be imposed upon a class of individuals protected by Title VII or Iowa Code chapter 216 who, but for prior discrimination, would have been granted the opportunity to qualify under less stringent selection standards previously in force.